



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MRM
F. #2001R02268

*610 Federal Plaza
Central Islip, New York 11722*

May 6, 2020

By ECF

Honorable Joanna Seybert
United States District Judge
United States District Court
Eastern District of New York
1030 Federal Plaza
Central Islip, New York 11722

Re: United States v. Storage Room Numbers, et al.
Criminal No. 01-MJ-1728 (JS)

Dear Judge Seybert:

The government writes to request that the Court place the pending unsealing motion (the “instant motion”) filed by Khalid Awan (“Awan”), regarding above-captioned matter, in abeyance for the reasons set forth below. The instant motion was filed by Awan on January 13, 2020. The government’s response is due on May 28, 2020 and Awan’s reply is currently due June 11, 2020.

The sealed search warrant which the instant motion seeks to unseal was originally issued and sealed on October 29, 2001 (the “Eastern District Warrant”). Six days earlier, on October 23, 2001, a material witness warrant for Awan’s arrest was issued in the Southern District of New York (hereinafter the “Southern District Warrant”). See In Re Application of the United States for Material Witness Warrant, pursuant to 18 U.S.C. 3144, for Khalid Awan, 19-MC-447 (LGS). Awan was arrested pursuant to the material witness warrant two days later, on October 25, 2001.

On October 1, 2019, Awan filed an application in the Southern District of New York seeking unsealing of application in support of the Southern District Warrant. This filing initiated Southern District case 19-MC-447 (LGS), which is currently pending before the Honorable Lorna G. Schofield. On April 12, 2020, the United States Attorney’s Office for the Southern District of New York (“USAO-SDNY”) filed its response to Awan’s application. In its response, the USAO-SDNY proposed a partial unsealing of the documents at issue in the Southern District Warrant. See In Re Application of the United States for

Material Witness Warrant, pursuant to 18 U.S.C. 3144, for Khalid Awan, 19-MC-447 (LGS), ECF Doc. Nos. 21 (filed ex parte) and 22 (publicly filed and redacted).

Following the USAO-SDNY filing its response, the undersigned Assistant United States Attorney (“AUSA”) spoke with the AUSA who filed the USAO-SDNY’s response. As a result of that conversation, it was determined that the information contained in the affidavits for Southern District Warrant and the Eastern District Warrant was substantially the same. Furthermore, it was determined that the limited information that the USAO-SDNY was seeking to keep under seal is the same information that the United States Attorney’s Office for the Eastern District of New York (“USAO-EDNY”) would seek to keep under seal in response to the instant motion.

Accordingly, if Judge Schofield denies the USAO-SDNY’s request to keep limited portions of the Southern District Warrant under seal and orders the entire document unsealed, the USAO-EDNY will not oppose unsealing of the Eastern District Warrant, as the information it would have sought to maintain under seal would have already been unsealed and disclosed to Awan. Similarly, if Judge Schofield grants the USAO-SDNY’s request to maintain limited portions of the Southern District Warrant under seal, the USAO-EDNY will request that this Court maintain the same limited portions of the Eastern District Warrant under seal for largely the same reasons as set forth in the USAO-SDNY’s April 12, 2020 response.

Therefore, because placing the instant motion in abeyance does not prejudice Awan in any way and will avoid this Court having to consider an application which may ultimately become moot, the government respectfully requests that this Court hold the instant motion in abeyance until a decision is issued in the Southern District case, In Re Application of the United States for Material Witness Warrant, pursuant to 18 U.S.C. 3144, for Khalid

Awan, 19-MC-447 (LGS). Upon the issuance of a decision in the Southern District case, the government would request 15 days to file its response.

Respectfully submitted,

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United States Attorney

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cc: Clerk of the Court (JS) (by ECF and email)

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